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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,282	04/24/2001	Noritaka Mochizuki	1232-4709	6033
27123	7590	02/28/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			THOMPSON, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.		Applicant(s)	
	09/841,282		MOCHIZUKI, NORITAKA	
	Examiner		Art Unit	
	Timothy J. Thompson		2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,7,10,11 and 36-41 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,6,7,10 and 11 is/are allowed.
- 6) ☒ Claim(s) 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36 rejected under 35 U.S.C. 102(b) as being anticipated by Yokoyama et al.(U.S. Patent No. 6,585,379).

Regarding claim 36, Yokoyama et al. discloses a plurality of reflecting surfaces(fig 2, 306); and means for controlling positions of the reflecting surfaces(col 8, lines 12-35, if a drive voltage is supplied it inherently has a controller for supplying or not supplying voltage to the specific mirror as desired), wherein said plurality of reflecting surfaces are capable of forming a reflective diffraction rating which generates diffraction light on the basis of incident light by control of the position of the plurality of reflecting surfaces by means of the means for controlling(a reflective diffraction grating can be achieved by bulging every other row of mirrors) .

Regarding claim 37, Yokoyama et al. discloses said control means controls heights of said plurality of reflecting surfaces, utilizing a plurality of Piezoelectric

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elements(col 8, lines 12-35, if a drive voltage is supplied it inherently has a controller for supplying or not supplying voltage to the specific mirror as desired).

Regarding claim 38, Yokoyama et al. discloses the plurality of reflecting surfaces are capable of acting as the reflective diffraction grating which generates diffraction light or as a major, by means of said means for controlling(col 8, lines 12-35, a reflective diffraction grating can be achieved by bulging every other row of mirrors).

Regarding claim 39, Yokoyama et al. discloses a projection optical system for projecting light from the optical modulation element(fig 3, 45, 47).

Regarding claim 40, 41, Yokoyama et al. discloses a stopper for shielding light reflected without being diffracted in said optical modulation element wherein light diffracted in the optical modulation element is not applied to said stopper, but projected to a predetermined surface by said projection optical system. (fig 3, 46, col 8, lines 44-60).

Allowable Subject Matter

Claims 1, 2, 4, 6, 7, 10, 11 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art taken either singularity or in combination fails to anticipate or fairly suggest the limitations of the independent claim, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claim 1, with the allowable feature being wherein

a deformation amount of a projecting or recessed shape of each element is changed by adjusting a voltage to be impressed to the piezoelectric element, thereby Controlling an intensity of reflected light. Therefore claims 1, 2, 4, 6, 7, 10, 11 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Timothy J Thompson whose telephone number is (571) 272-2342. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps, can be reached on (571) 272-2328.


TIMOTHY THOMPSON
PRIMARY EXAMINER